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THE STATE SOCIETY OF THE
CINCINNATI OF PENNSYLVANIA
REPORT OF COMMITTEE ON MEMBERSHIP
APRIL 19, 1918

TO THE STANDING COMMITTEE OF THE
STATE SOCIETY OF THE CINCINNATI OF PENNSYLVANIA

The claim of Henry W. Howell in right of Captain Joseph Howell was considered by the Committee on Membership which preceded ours and a decision adverse to the claimant was unanimously reached, but by the loss of two members it was necessary to reorganize this committee before it had reported its decision. Therefore, considering the case very important as a precedent, and knowing that a prominent officer of the General Society had asserted that any adverse decision of the claim would be contrary to the Institution and to the practice of the other twelve societies, the present committee decided to consider the whole matter *de novo* and not to accept without question the decision of the previous committee.

The following chart of descent is divested of non-essential persons and relationships.

Captain Joseph Howell (1750-1798),
Married Rebecca Betterton,
(Original Member.)

Benjamin B. Howell (1776-1841),
only surviving son of above,
Married Frances Howell.
(Member.)

Lewis Howell (1811-1854),
eldest son of above,
Married Margaret Armstead.
(Member.)

Henry Washington Howell (1813-1899),
second son of above,
Married Emily Babcock.

Frances Howell (1841-1864),
eldest daughter of above,
Married Stephen Kennedy.

Henry W. Howell (1859-),
only surviving son of above,
Married Julia Varick Olmstead.
(Applicant.)

Frances H. H. Kennedy (1864-1886),
only daughter of above,
Married William M. Manly.

Christopher H. Manly,
still living in 1918,
only son of above.

The only question at issue is whether upon the death, in 1854, of Lewis Howell, a hereditary member, the right to membership, in default of direct male issue, became

vested in the direct line of descent through his eldest daughter, or in the collateral line through the eldest surviving brother of the deceased.

It is significant that the claim to membership now raised by Henry W. Howell could have been made with equal propriety by his father in 1854, or by himself when he became of age in 1880. This failure of both father and son to make any claim for the collateral line during a period of sixty-four years would seem to indicate that such claim was generally regarded as untenable.

That such was the prevalent understanding at the time is shown by one of the earliest rulings of the General Society relating to this subject. At the triennial meeting of the General Society held in Philadelphia, May 4, 1829, it was resolved that: "A question having arisen whether, in the case of the death of a member having no male issue except a grandson, the issue of a daughter, such grandchild shall be preferred to collaterals: the Society conceives the true construction of the Constitution to be that the grandson shall be preferred, he being in the direct line of descent." It seems inevitable that, for exactly the same reason and under similar circumstances, the great grandson of a deceased member should be preferred to any collateral such as Henry W. Howell. We do not claim that the resolution passed at the triennial meeting of 1829 is necessarily binding upon this or any other State society unless definitely accepted by it, but later this resolution was practically endorsed by the action of our own Pennsylvania Society, as follows:

On June 16, 1897, Mr. Sproat, Chairman of the Committee on Membership, reported that: "In the case of Philip Bethel Boude, in right of Captain Thomas Boude, that the applicant has not a good claim to membership, as his grandfather, Samuel Bethel Boude, had an elder brother, G. Washington Boude, who left issue a daughter who is still living, now upwards of seventy years and unmarried." The elderly female here referred to died in 1901, and the removal of this obstacle permitted the election of Philip Bethel Boude as a member in 1905. If we follow this precedent now, our decision in regard to the present claim of Henry W. Howell must be adverse.

Again, on January 27, 1886, a special committee of this society, consisting of Robert Coltman, Francis M. Caldwell and George W. Biddle, reported a set of rules by which it was proposed to govern future admissions to membership. The first of these rules reads as follows: "In case of lineal descendants of an original member, the eldest son shall succeed, and after him (= the eldest son) his descendants (= male or female), giving preference always to representation through males in the same degree, and afterwards to male descendants of females. For example, where there are an eldest daughter and sons, the sons' stocks, according to seniority, shall be first exhausted, afterwards the daughters' stocks according to seniority." The explicit statement that "the eldest son shall succeed and after him his descendants" without any qualification as to sex makes it perfectly clear that the succession should continue indefinitely in the direct line of descent from the eldest son to his issue, whether through males or females, but preferably through males, until that line is exhausted.

As the English law of primogeniture prevailed in the original thirteen states when the Society of the Cincinnati was organized, it seems to be generally considered that Blackstone's exposition of that law is a legitimate guide in interpreting the meaning of our Institution in matters relating to hereditary membership.

The first rule of primogeniture given by Blackstone is that the inheritance "shall lineally descend to the issue of the person who last died actually seised *in infinitum*, but shall never lineally ascend." From this it would seem to follow that when Lewis Howell, the last of that family who was a member of this society, died, the right of membership went to his issue, even if such issue was female, and continued *ad infinitum* until there failed to be any direct issue of his.

Furthermore, as illustrating the fourth rule of primogeniture, Blackstone says: "Thus the child, grandchild or great grandchild (either male or female) of the eldest son succeeds before the younger son." This covers exactly the situation when Lewis Howell,

a member, died, and shows conclusively that the right to membership could not go to or through his younger brother.

The only authority, so far as we know, that would lead to a favorable consideration of the present application by Henry W. Howell contained in a resolution passed by the General Society at Newport, R. I., July 28, 1887. This reads as follows: "*Resolved*, That the General Society conceives the true interpretation of the Institution regarding the descent is that the Original Member is to be considered the *praepositus* from whom the succession is to be derived, and that the collateral branches are those collateral to the Original Member, and the succession should be through the direct line, and not through females, until all the male lines have become extinct."

Aside from the inherent absurdity and directly contradictory phraseology of this resolution, there are several more important considerations to bear in mind.

(1) Our power to judge of the qualifications of candidates for admission to membership is limited only by the Institution of the society.

(2) The Institution can only be amended by unanimous consent of all the State societies.

(3) The delegates to a triennial meeting cannot exceed the powers of the societies they represent and, by a majority vote, practically amend the Institution through the subterfuge of passing a resolution which places an interpretation on that document which all the State societies do not accept.

(4) Such resolutions have merely the force of advice or recommendation. They should be respectfully considered, but are not binding upon any State society unless definitely approved by it, particularly when there are good reasons for withholding such approval.

(5) The fact that this resolution, passed at the triennial meeting of 1887, must have been perfectly well known to Mr. Sproat's committee, the Standing Committee and the whole Pennsylvania Society when, in 1897, all of them rejected the claim of Philip Bethel Boude in favor of a possible but highly improbable male heir to an unmarried woman then more than seventy years of age, shows conclusively that we have never accepted or approved the resolution of 1887.

(6) If we approve it now, we must hereafter prefer the brother of a deceased member without male issue to his daughter and her issue. The father of an Original Member must in future be regarded as the actual *propositus*, because we can have no knowledge of the collateral relationship existing between brothers except upon evidence that they are the sons of the same father and mother. We shall have to ignore the first rule of primogeniture, as given by Blackstone, and a further statement by the same authority that "though daughters are excluded by sons, yet they succeed before any collateral relations." Furthermore, if we conform to the resolution of 1887, we must discard the resolution passed at the triennial meeting of 1829 and acknowledge that the action of the Pennsylvania Society, its Standing Committee and Mr. Sproat's Committee on Membership in 1897 was entirely wrong.

Believing that we are not prepared to assume any such position, we have no alternative but to report that, until it is proved that there are no direct descendants, male or female, of Lewis Howell, a hereditary member of this Society, Henry W. Howell has no claim to succeed him. Further, all the evidence now before us indicates that Christopher H. Manly is entitled to succeed his great-grandfather, the deceased hereditary member, whenever he makes the usual application, with proper evidence as to age and gives the usual personal references.

Respectfully submitted,

NEVILLE B. CRAIG, Chairman,
FRANCIS G. CALDWELL,
COMMITTEE.

The third member of this committee, Mr. Daniel Heyward Hamilton, feels that he cannot sign this report.

